

EXHIBIT 5

HIGHLY CONFIDENTIAL

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H I G H L Y C O N F I D E N T I A L
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

-----x

UNITED STATES, et al.,

Plaintiffs,

vs.

Case No.

1:23-cv-000108

GOOGLE LLC,

Defendant.

-----x

HIGHLY CONFIDENTIAL

VIDEOTAPED DEPOSITION OF LUKE LAMBERT

New York, New York

Tuesday, August 29, 2023

9:37 a.m.

Reported by:

Jennifer Ocampo-Guzman, CRR, CLR

Job No. CS6079449

Veritext Legal Solutions

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<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8 August 29, 2023</p> <p>9 9:37 a.m.</p> <p>10</p> <p>11</p> <p>12 HIGHLY CONFIDENTIAL</p> <p>13 Videotaped Deposition of LUKE</p> <p>14 LAMBERT, held at the offices of Latham</p> <p>15 & Watkins, LLP, 1271 Avenue of the</p> <p>16 Americas, New York, New York, pursuant</p> <p>17 to subpoena, before Jennifer</p> <p>18 Ocampo-Guzman, a Certified Realtime</p> <p>19 Shorthand Reporter and Notary Public of</p> <p>20 the State of New York.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1</p> <p>2 APPEARANCES (Continued):</p> <p>3</p> <p>4 LATHAM & WATKINS</p> <p>5 Attorneys for Omnicom Holdings and the</p> <p>6 Deponent</p> <p>7 505 Montgomery Street, Suite 2000</p> <p>8 San Francisco, California 94111</p> <p>9 BY: NIAL L LYNCH, ESQ.</p> <p>10 AARON CHIU, ESQ.</p> <p>11 KAILEN MALLOY, ESQ., (via Zoom)</p> <p>12</p> <p>13 ALSO PRESENT:</p> <p>14 MARCELO RIVERA, Videographer</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 UNITED STATES DEPARTMENT OF JUSTICE</p> <p>5 Attorneys for Plaintiff United States</p> <p>6 450 5th Street, NW, Suite 7000</p> <p>7 Washington, DC 20530</p> <p>8 BY: KATHERINE E. CLEMONS, ESQ.</p> <p>9 RACHEL ZWOLINKSKI, ESQ.</p> <p>10 ALVIN CHU, ESQ., (via Zoom)</p> <p>11</p> <p>12 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP</p> <p>13 Attorneys for Defendant Google LLC</p> <p>14 1285 Avenue of the Americas</p> <p>15 New York, New York 10019</p> <p>16 BY: ERIN J. MORGAN, ESQ.</p> <p>17 LEAH HIBBLER, ESQ.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 HIGHLY CONFIDENTIAL</p> <p>2 THE VIDEOGRAPHER: Good morning.</p> <p>3 We are going on the record at 9:37 a.m.,</p> <p>4 on August 29, 2023. Please note that</p> <p>5 the microphones are sensitive and may</p> <p>6 pick up whispering and private</p> <p>7 conversations. Please mute your phones</p> <p>8 at this time. Audio and video recording</p> <p>9 will continue to take place unless all</p> <p>10 parties agree to go off the record.</p> <p>11 This is the media unit 1 of the</p> <p>12 video-recorded deposition of Mr. Luke</p> <p>13 Lambert, in the matter, United States,</p> <p>14 et al., versus Google LLC. This</p> <p>15 deposition is being held at Latham &</p> <p>16 Watkins, located at 1271 Avenue of the</p> <p>17 Americas, New York, New York. My name</p> <p>18 is Marcelo Rivera, representing Veritext</p> <p>19 Legal Solutions, and I am the</p> <p>20 videographer. The court reporter is</p> <p>21 Jennifer Ocampo-Guzman in association</p> <p>22 with Veritext Legal Solutions.</p> <p>23 I am not related to any party in</p> <p>24 this action, nor am I financially</p> <p>25 interested in the outcome. If there are</p>

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<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 billing and maintenance tool.</p> <p>3 Q. When you send the insertion order</p> <p>4 to yourselves, is there a pay term that you</p> <p>5 are obligated to pay Google?</p> <p>6 A. It is the pay term. There is no</p> <p>7 change in the pay term.</p> <p>8 Q. To your knowledge, does the Army</p> <p>9 contract directly with Google for the</p> <p>10 services that Omnicom uses from Google on the</p> <p>11 Army's behalf?</p> <p>12 MS. CLEMONS: Objection, form.</p> <p>13 A. To my knowledge, no.</p> <p>14 Q. Do invoices for Google services</p> <p>15 provided to Omnicom for the Army --</p> <p>16 MS. MORGAN: Let me ask that a</p> <p>17 different way.</p> <p>18 Q. Do invoices for Google services</p> <p>19 used by Omnicom agencies on behalf of the</p> <p>20 Army come to Omnicom?</p> <p>21 A. Yes.</p> <p>22 Q. Does Omnicom pass those costs on to</p> <p>23 the Army?</p> <p>24 A. Yes.</p> <p>25 Q. And does Omnicom pay Google for the</p>	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 MS. CLEMONS: Objection, form,</p> <p>3 foundation.</p> <p>4 A. Yes.</p> <p>5 Q. Are the Omnicom agencies that work</p> <p>6 with CMS billed by Google for the services</p> <p>7 that Omnicom agencies use on behalf of CMS?</p> <p>8 MS. CLEMONS: Objection, form,</p> <p>9 foundation.</p> <p>10 A. Is your question, does Google bill</p> <p>11 Omnicom?</p> <p>12 Q. Yes.</p> <p>13 A. Yes.</p> <p>14 Q. Thank you.</p> <p>15 Does Omnicom pay Google directly</p> <p>16 for the services used on behalf of CMS?</p> <p>17 MS. CLEMONS: Objection, form.</p> <p>18 A. Yes.</p> <p>19 Q. And does Omnicom pass on those</p> <p>20 costs to CMS?</p> <p>21 A. Yes.</p> <p>22 Q. I'm going to ask you the same</p> <p>23 questions about NHTSA.</p> <p>24 Are you familiar with the NHTSA</p> <p>25 contracts between -- are you familiar with</p>
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<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 services Google provides to Omnicom customers</p> <p>3 under the evergreen Google agreement?</p> <p>4 MS. CLEMONS: Objection, form.</p> <p>5 A. Omnicom pays Google.</p> <p>6 Q. Does Omnicom pay Google for</p> <p>7 services used by Omnicom on the Army's</p> <p>8 behalf?</p> <p>9 A. Omnicom pays Google.</p> <p>10 Q. Are you familiar with the contracts</p> <p>11 between Omnicom agencies and CMS?</p> <p>12 A. No.</p> <p>13 Q. Do you have any reason to think</p> <p>14 that -- well, do the Omnicom agencies that</p> <p>15 work with CMS use Google products on behalf</p> <p>16 of CMS?</p> <p>17 MS. CLEMONS: Objection, form,</p> <p>18 foundation.</p> <p>19 A. Yes.</p> <p>20 Q. What products?</p> <p>21 A. DV360 and Campaign Manager and Ads</p> <p>22 360. So programmatic, ad serving and search.</p> <p>23 Q. Do the Omnicom agencies that work</p> <p>24 with CMS contract directly with Google for</p> <p>25 use of those services on CMS' behalf?</p>	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 the contracts between NHTSA and the Omnicom</p> <p>3 agencies that work with NHTSA?</p> <p>4 A. I do not know the scopes.</p> <p>5 Q. Do you know if NHTSA -- or if</p> <p>6 Omnicom uses Google products on behalf of</p> <p>7 NHTSA?</p> <p>8 A. They do.</p> <p>9 Q. And what are the products?</p> <p>10 A. DV360, Ads and Campaign Manager.</p> <p>11 Q. Does Google, does Omnicom contract</p> <p>12 directly with Google for use of those tools</p> <p>13 on NHTSA's behalf?</p> <p>14 A. Yes.</p> <p>15 MS. CLEMONS: Objection, form.</p> <p>16 Q. Does Omnicom pay Google directly</p> <p>17 for use of those tools on NHTSA's behalf?</p> <p>18 MS. CLEMONS: Objection, form.</p> <p>19 A. Yes.</p> <p>20 Q. Does Omnicom pass those costs on to</p> <p>21 NHTSA?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know whether NHTSA or CMS</p> <p>24 contracts directly with Google for use of any</p> <p>25 Google tools?</p>

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<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 A. I don't know what their GMP</p> <p>3 contract entails.</p> <p>4 Q. Are you aware that between the fall</p> <p>5 of 2019 through 2021, the Department of</p> <p>6 Justice conducted an investigation into</p> <p>7 Google's ad tech business?</p> <p>8 MS. CLEMONS: Objection, form.</p> <p>9 A. I'm sorry. Can you --</p> <p>10 Q. New topic.</p> <p>11 Are you aware that between the fall</p> <p>12 of 2019 throughout 2021, the Department of</p> <p>13 Justice conducted an investigation into</p> <p>14 Google's ad tech business?</p> <p>15 MS. CLEMONS: Same objection.</p> <p>16 A. Yes.</p> <p>17 Q. Did you meet with the Department of</p> <p>18 Justice on a voluntary basis at any time</p> <p>19 between 2019 and 2021?</p> <p>20 MS. CLEMONS: Objection, form.</p> <p>21 A. No.</p> <p>22 Q. Do you know if anyone at Omnicom</p> <p>23 met with the Department of Justice during</p> <p>24 that two-year period, between 2019 and 2021?</p> <p>25 A. I do not know.</p>	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 contracts I believe that we had. You have</p> <p>3 some of my e-mails from that time period.</p> <p>4 Q. Did you participate in the process</p> <p>5 of collecting documents for the DOJ</p> <p>6 investigation?</p> <p>7 A. Yes.</p> <p>8 Q. What was your role?</p> <p>9 A. Saving my documents.</p> <p>10 Q. Good one.</p> <p>11 Are you aware that the Department</p> <p>12 of Justice has brought a litigation against</p> <p>13 Google in the Eastern District of Virginia</p> <p>14 related to its ad tech business?</p> <p>15 A. I don't know what that means.</p> <p>16 Q. Do you know that the Department of</p> <p>17 Justice sued Google related to its ad tech</p> <p>18 business?</p> <p>19 A. Yes.</p> <p>20 Q. We talked about whether you met</p> <p>21 with the Department of Justice between 2019</p> <p>22 and 2021. Have you met with the Department</p> <p>23 of Justice since 2021?</p> <p>24 A. Yes.</p> <p>25 Q. How many times?</p>
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<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 Q. You don't know one way or the other</p> <p>3 or --</p> <p>4 A. I just don't know.</p> <p>5 Q. Did Omnicom produce documents to</p> <p>6 the Department of Justice during that period</p> <p>7 of time, from 2019 to 2021?</p> <p>8 A. Yes.</p> <p>9 Q. Were those documents produced in</p> <p>10 response to a subpoena or other legal</p> <p>11 process?</p> <p>12 A. Yes.</p> <p>13 Q. Did Omnicom produce any documents</p> <p>14 voluntarily without a subpoena?</p> <p>15 A. I do not know.</p> <p>16 Q. Do you know what the documents are</p> <p>17 that were produced to the Department of</p> <p>18 Justice in connection with that</p> <p>19 investigation?</p> <p>20 A. In total?</p> <p>21 Q. Do you have a sense of what topics</p> <p>22 they covered?</p> <p>23 A. Yes.</p> <p>24 Q. What did they cover?</p> <p>25 A. Communications on Google, any</p>	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 A. Two.</p> <p>3 Q. When was the first time?</p> <p>4 A. Within the last three months.</p> <p>5 Q. How long was that meeting?</p> <p>6 A. Maybe 45 minutes.</p> <p>7 Q. Was it in person?</p> <p>8 A. No.</p> <p>9 Q. Was it over the phone?</p> <p>10 A. No.</p> <p>11 Q. Was it on videoconference?</p> <p>12 A. It was.</p> <p>13 Q. Who else attended the interview?</p> <p>14 A. Myself, Megan Frisbie, Danielle</p> <p>15 Atanda.</p> <p>16 Q. Who is Megan Frisbie?</p> <p>17 A. Megan Frisbie is the Annalect lead</p> <p>18 for The U.S. Army business at Team DDB.</p> <p>19 Q. And who is Danielle Atanda?</p> <p>20 A. Danielle Atanda is the client</p> <p>21 business lead for OMD on Team DDB at The U.S.</p> <p>22 Army.</p> <p>23 Q. How many -- well, were there</p> <p>24 lawyers from the DOJ there?</p> <p>25 A. Yes.</p>

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<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 Q. Do you know how many?</p> <p>3 A. No.</p> <p>4 Q. More than one?</p> <p>5 A. I don't know.</p> <p>6 Q. Do you remember who any of the DOJ</p> <p>7 lawyers were that were there?</p> <p>8 A. I don't.</p> <p>9 Q. Do you remember if there was anyone</p> <p>10 there from the states there are plaintiffs in</p> <p>11 this case?</p> <p>12 A. I do not believe there was anyone</p> <p>13 from states that were plaintiffs.</p> <p>14 Q. Was there anyone there besides the</p> <p>15 people you've mentioned from Omnicom,</p> <p>16 yourself, Megan Frisbie, Danielle Atanda and</p> <p>17 lawyers from the Department of Justice?</p> <p>18 A. Yes.</p> <p>19 Q. Who else was there?</p> <p>20 A. There was a gentleman that was</p> <p>21 presented as either an economist or at least</p> <p>22 a data analyst.</p> <p>23 Q. And what was his name?</p> <p>24 A. I don't recall.</p> <p>25 Q. Did he speak in the meeting or just</p>	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 Q. Did the Department of Justice ask</p> <p>3 you about anything besides campaign reports</p> <p>4 related to the Army?</p> <p>5 A. Yes.</p> <p>6 Q. What else did they ask you about?</p> <p>7 A. General ecosystem, to understand</p> <p>8 what would be in the columns of these</p> <p>9 campaign reports.</p> <p>10 Q. Did they ask you questions about</p> <p>11 Google products?</p> <p>12 A. Only those that were in headers of</p> <p>13 the campaign report.</p> <p>14 Q. What products were in headers of</p> <p>15 the campaign report?</p> <p>16 A. DV360 would be a product that would</p> <p>17 be in there. Ads would be in there. The ad</p> <p>18 server would be in there.</p> <p>19 Q. Did you take documents with you for</p> <p>20 that meeting, or did you give the Department</p> <p>21 of Justice documents in connection with that</p> <p>22 meeting?</p> <p>23 A. This is the first meeting?</p> <p>24 Q. Yeah.</p> <p>25 A. We did not bring any documentation</p>
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<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 listened?</p> <p>3 A. The meeting was effectively a</p> <p>4 conversation between us and him.</p> <p>5 Q. Did you have a lawyer there?</p> <p>6 A. Yes.</p> <p>7 Q. Who was there with you?</p> <p>8 A. These two gentleman to my left.</p> <p>9 Q. I'm not surprised.</p> <p>10 What did you talk about in that</p> <p>11 meeting?</p> <p>12 A. Campaign reporting.</p> <p>13 Q. What kinds of questions did the</p> <p>14 Department of Justice ask you about campaign</p> <p>15 reporting?</p> <p>16 A. Can you provide campaign reports</p> <p>17 across all Google investments and</p> <p>18 activations.</p> <p>19 Q. Is that specifically in connection</p> <p>20 with the Army?</p> <p>21 A. It was.</p> <p>22 Q. Do you think that was in the last</p> <p>23 three months, so some time between May and</p> <p>24 now?</p> <p>25 A. That feels accurate.</p>	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 to that meeting. We brought our brains.</p> <p>3 Q. Did the Department of Justice</p> <p>4 already have campaign reports?</p> <p>5 A. Yeah.</p> <p>6 Q. Did you look at any campaign</p> <p>7 reports during the meeting?</p> <p>8 A. With the Department of justice,</p> <p>9 like looked at them on screen?</p> <p>10 Q. Yes, like on screen.</p> <p>11 A. No.</p> <p>12 Q. Did the Department of Justice</p> <p>13 reference any specific campaign reports that</p> <p>14 they were asking you about?</p> <p>15 A. They didn't know what campaign</p> <p>16 reports were.</p> <p>17 Q. What did they ask you about, the</p> <p>18 general ecosystem besides the headers in the</p> <p>19 campaign reports?</p> <p>20 A. Similar to this conversation, how</p> <p>21 we buy, what we buy, specifically for The</p> <p>22 U.S. Army activations.</p> <p>23 Q. Then did they show you any</p> <p>24 documents during that meeting at all?</p> <p>25 A. Not to my recollection.</p>

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<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 Q. Let's talk about the second</p> <p>3 meeting. When was that?</p> <p>4 A. Within I believe a week or two,</p> <p>5 maximum.</p> <p>6 Q. Of the first meeting?</p> <p>7 A. Yes.</p> <p>8 Q. So you the first meeting and a week</p> <p>9 or two later you had a second meeting?</p> <p>10 A. That's correct.</p> <p>11 Q. How long was that meeting?</p> <p>12 A. Again maybe 45 minutes, under an</p> <p>13 hour.</p> <p>14 Q. Was it also on video conference?</p> <p>15 A. It was.</p> <p>16 Q. Was it attended also by Megan</p> <p>17 Frisbie and Danielle Atanda?</p> <p>18 A. I don't know if Danielle joined. I</p> <p>19 wanna say, yes. And definitely Megan</p> <p>20 Frisbie.</p> <p>21 Q. Were there lawyers for the</p> <p>22 Department of Justice also at that meeting?</p> <p>23 A. I want to say, yes, because I</p> <p>24 assume these people were lawyers, but I</p> <p>25 cannot recall being introduced to lawyers.</p>	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 course of the history of the client.</p> <p>3 Q. And you're talking about data</p> <p>4 specifically related to Omnicom's</p> <p>5 relationship with the Army?</p> <p>6 A. Yes.</p> <p>7 Q. And the data that they were looking</p> <p>8 for covered the entirety of the relationship,</p> <p>9 so going all the way back like five years?</p> <p>10 A. Yes.</p> <p>11 Q. When was the first time that they</p> <p>12 asked you for this data?</p> <p>13 A. In the first meeting.</p> <p>14 Q. Did they serve you with a document</p> <p>15 subpoena before the first meeting?</p> <p>16 A. I was not served.</p> <p>17 Q. Do you know if Omnicom received a</p> <p>18 document subpoena before the first meeting?</p> <p>19 A. I do not know.</p> <p>20 Q. Besides the volume of data, what</p> <p>21 else did you discuss in the second meeting?</p> <p>22 A. How the volume of data would not</p> <p>23 provide them the insight that I think they</p> <p>24 were looking for, nor could they tell us what</p> <p>25 they needed so that we can make it easy on</p>
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<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 Q. Were there people from the</p> <p>3 Department of Justice there?</p> <p>4 A. Yeah.</p> <p>5 Q. Was the economist/data analyst that</p> <p>6 you mentioned also there?</p> <p>7 A. Yep.</p> <p>8 Q. Were there any other experts like</p> <p>9 that?</p> <p>10 A. No.</p> <p>11 Q. Was anyone else there besides your</p> <p>12 counsel?</p> <p>13 A. No.</p> <p>14 Q. No one from the states?</p> <p>15 A. No.</p> <p>16 Q. What did you talk about in that</p> <p>17 meeting?</p> <p>18 A. The volume of data and how we could</p> <p>19 actually produce what they really needed.</p> <p>20 Q. What data were they looking for?</p> <p>21 A. All of it.</p> <p>22 Q. When you say "All of it," what do</p> <p>23 you mean?</p> <p>24 A. I'm talking about terabytes of</p> <p>25 data, of line items, campaigns over the</p>	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 them.</p> <p>3 Q. What is the insight you think they</p> <p>4 were looking for?</p> <p>5 A. I quite literally think they wanted</p> <p>6 to know, column by column, what impressions</p> <p>7 were being, quite literally a campaign</p> <p>8 report, where were the dollars moving and</p> <p>9 why.</p> <p>10 Q. Did you take documents to that</p> <p>11 meeting?</p> <p>12 A. We did.</p> <p>13 Q. What documents did you take?</p> <p>14 A. We brought a template to see if the</p> <p>15 template would be something that would</p> <p>16 suffice.</p> <p>17 Q. And when you say "a template," are</p> <p>18 you talking about a template campaign report?</p> <p>19 A. Yes.</p> <p>20 Q. And when you refer to "a template,"</p> <p>21 are you talking about something that didn't</p> <p>22 exist but that you created for the meeting?</p> <p>23 A. We did create this template for</p> <p>24 this meeting, but templates like this do</p> <p>25 exist.</p>

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2 Q. Did you provide the template to the

3 Department of Justice, or did you give it to

4 them?

5 A. Yes.

6 Q. Did you give it also to the

7 economist?

8 A. Yes.

9 Q. Did they ask you for additional

10 documents after that meeting?

11 A. They never even asked us to fill in

12 the template.

13 Q. Did they ask you any questions

14 about Google at the second meeting?

15 A. It was -- the crux of the

16 conversation was Google templates, Google

17 data, campaign data, campaign reports.

18 Q. Did they ask you for any

19 information about Google that was not data

20 related?

21 A. No.

22 Q. Did they ask you for opinions about

23 Google?

24 A. No.

25 Q. Did the Department of Justice ever

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2 talk to you about the possibility of being a

3 witness at the trial in this case?

4 A. Yes.

5 Q. What was that conversation?

6 A. We are talking about -- two

7 different meetings, I want to make sure that

8 I know which -- you are talking about the

9 Army portion or the thing that we are doing

10 today, that was all today? Are they have the

11 same thing? I don't know.

12 Q. I guess let me try to like zoom out

13 for a second.

14 You said that the Department of

15 Justice spoke to you at some point about

16 potentially being a trial witness in this

17 case. When did that conversation happen?

18 A. I asked counsel within the last two

19 weeks what the next kind of procedural step

20 is after a deposition.

21 Q. Did you talk about whether you

22 would be a trial witness with the Department

23 of Justice, or did you only talk about it

24 with your counsel?

25 A. I only spoke about it with my

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2 counsel.

3 Q. Do you know if your counsel spoke

4 about it with the Department of Justice?

5 A. I do not know, but I do not think

6 so.

7 Q. Did you have a conversation about,

8 if your counsel had any meetings with the

9 Department of Justice without you?

10 MR. LYNCH: Wait. Hold on. I just

11 want to make sure you're not asking for

12 any attorney-client communications

13 between us.

14 MS. MORGAN: I'm not asking for any

15 privileged communications.

16 Q. I'm just asking about, do you know

17 whether, it's a yes or no question: Do you

18 know whether your counsel met with the

19 Department of Justice without you at any

20 point?

21 A. No.

22 Q. No, you don't know.

23 MS. MORGAN: I think I'm about to

24 wrap up. Can we go off the record for

25 like three minutes so we can go talk and

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2 get all of Leah's insights?

3 MR. LYNCH: Do you want us just to

4 hang out here then?

5 MS. MORGAN: You can take a break

6 or whatever you want to do really.

7 THE VIDEOGRAPHER: The time is

8 3:39 p.m. We are going off the record.

9 (A brief recess was taken.)

10 THE VIDEOGRAPHER: The time is

11 3:46 p.m. We are going back on the

12 record.

13 Q. Before we took our break, we were

14 talking about a conversation you had with the

15 department -- or two conversations you had

16 with the Department of Justice about data.

17 To be clear, did Omnicom have data that shows

18 purchases on Army's behalf through Google

19 products?

20 A. Yes.

21 Q. How far back does that data go?

22 A. Since the start of the contract.

23 Q. And is that maintained on Army's

24 behalf so Army can access it?

25 MS. CLEMONS: Objection to form.

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 238</p> <p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 A. It is.</p> <p>3 And I also want to edit my answer.</p> <p>4 I believe they purge after three years on</p> <p>5 data.</p> <p>6 And I wanted to clarify, we had a</p> <p>7 question with like a bit of a hanging chat on</p> <p>8 did I talk to them about being a witness.</p> <p>9 Q. Oh, yeah.</p> <p>10 A. I talked with my counsel about</p> <p>11 being in the next stage in this, about could</p> <p>12 I be called as a witness for whatever that</p> <p>13 next round is, and they said, yes, Google or</p> <p>14 the DOJ could do that and I said okay.</p> <p>15 Q. Thank you for the clarification.</p> <p>16 So you have data, Omnicom has data</p> <p>17 going back at least three years that shows</p> <p>18 purchases on Army's behalf for Google's</p> <p>19 products?</p> <p>20 A. Yes.</p> <p>21 Q. Did you offer that data to the</p> <p>22 Department of Justice?</p> <p>23 A. That would be the template we were</p> <p>24 speaking about.</p> <p>25 Q. And you said that after the second</p>	<p style="text-align: right;">Page 240</p> <p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 EXAMINATION BY</p> <p>3 MS. CLEMONS:</p> <p>4 Q. Mr. Lambert, I am going to ask you</p> <p>5 to refer back to Exhibit 1, if you have that</p> <p>6 somewhere available.</p> <p>7 THE WITNESS: I gave them all to</p> <p>8 the court reporter.</p> <p>9 Thank you.</p> <p>10 Q. Do you recall testifying earlier</p> <p>11 about this document?</p> <p>12 A. I do.</p> <p>13 Q. And you described this document as</p> <p>14 a tactical recommendation or reco I think is</p> <p>15 the term you used; is that right?</p> <p>16 A. That's correct.</p> <p>17 Q. So is it fair to say, based on the</p> <p>18 title of this document and the use of</p> <p>19 recommendation throughout, that this was not</p> <p>20 a final approved plan at the time that DDB</p> <p>21 created the document?</p> <p>22 A. That's exactly --</p> <p>23 MS. MORGAN: Objection, form.</p> <p>24 MR. LYNCH: You can answer.</p> <p>25 A. That's exactly right.</p>
<p style="text-align: right;">Page 239</p> <p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 meeting you had with the Department of</p> <p>3 Justice, they never followed up with you on</p> <p>4 getting that template?</p> <p>5 A. That's correct.</p> <p>6 MS. CLEMONS: Objection, form,</p> <p>7 foundation.</p> <p>8 A. That's correct.</p> <p>9 Q. Do you know if DOJ has tried to get</p> <p>10 that data from Omnicom since your meeting?</p> <p>11 A. I do not believe they have.</p> <p>12 MS. MORGAN: I have no further</p> <p>13 questions for now. I'll just reserve</p> <p>14 the rest of my time.</p> <p>15 MR. LYNCH: Do you want take</p> <p>16 another break?</p> <p>17 MS. CLEMONS: If we could take like</p> <p>18 ten minutes, that would be helpful.</p> <p>19 MR. LYNCH: Sure.</p> <p>20 THE VIDEOGRAPHER: The time is</p> <p>21 3:49 p.m. and we are going off the</p> <p>22 record.</p> <p>23 (A brief recess was taken.)</p> <p>24 THE VIDEOGRAPHER: The time is</p> <p>25 4:09 p.m. We are back on the record.</p>	<p style="text-align: right;">Page 241</p> <p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 Q. So could DDB or OMD execute any of</p> <p>3 the recommendations in this document without</p> <p>4 Army's approval?</p> <p>5 A. No.</p> <p>6 Q. How often does your team at OMD</p> <p>7 communicate with representatives of Army?</p> <p>8 MS. MORGAN: Objection, form.</p> <p>9 A. Daily.</p> <p>10 Q. What kinds of communications do you</p> <p>11 have daily with representatives of Army?</p> <p>12 A. Should I speak just to OMD or Team</p> <p>13 DDB?</p> <p>14 Q. Start with OMD.</p> <p>15 A. I don't think there's much</p> <p>16 difference. I just want to be clear.</p> <p>17 OMD has, you know, standing</p> <p>18 statuses. They have reviews. We have, you</p> <p>19 know, retrospectives and scrums. There is</p> <p>20 just standing meetings, and then there is</p> <p>21 review meetings that happen as well.</p> <p>22 Q. What kinds of topics are discussed</p> <p>23 at the review meeting?</p> <p>24 A. Tactical recommendations are</p> <p>25 discussed, current performance and trends are</p>

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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